

SPECIAL ORDINANCE NO. 8, 2018

APPLICATION FOR REZONING PETITION CITY OF TERRE HAUTE

=====

Common Address of lots to be rezoned:
2611 South Sycamore Terrace, Terre Haute, IN 47803
(Part of Parcel No. 84-07-31-300-001.000-009 and
Parcel No. 84-07-31-401-006.000-009)

Rezone From: O-1 Open-Space Agricultural, and
C-3 Regional Commercial District

Rezone To: C-3 Regional Commercial District

Proposed Use: Commercial Development

Name of Owners: Terre Haute Realty, LLC

Address of Owners: 900 Wabash Avenue
Indianapolis, IN 46207

Phone Number of Owners: c/o Richard J. Shagley
812-232-3388

Attorney Representing Owners: Richard J. Shagley

Address of Attorney: Wright, Shagley & Lowery, P.C.
PO Box 9849, Terre Haute, IN 47807

For Information Contact: ☐ Owner ☒ Attorney

Council Sponsor: Earl Elliott

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COPY OF A SITE-PLAN MUST ACCOMPANY THIS APPLICATION

FILED

MAY 03 2018

**SPECIAL ORDINANCE FOR A REZONING
SPECIAL ORDINANCE NO. 8, 2018**

CITY CLERK

An Ordinance Amending Chapter 10, Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for Terre Haute Indiana."

SECTION I. BE IT ORDIANED BY THE COMMON COUNCIL of the City of Terre Haute, Vigo County, State of Indiana, that Chapter 10, Article 2 of the City Code of Terre Haute, designated as the "Comprehensive Zoning Ordinance for Terre Haute" and Division 4, Section 10.121 thereof, District Maps, be, and the same is hereby amended to include as follows:

A part of the land in the name of Terre Haute Realty, LLC (Instrument No. 2014014632) being in the Southwest Quarter and the Southeast Quarter of Section 31, Township 12 North, Range 8 West of the Second Principal Meridian, Lost Creek Township, City of Terre Haute, Vigo County, Indiana described as follows:

Commencing at a cotton gin spindle monumenting the South Quarter Corner of said section; thence North 00 degrees 20 minutes 42 seconds East along the East line of the Southwest Quarter of said section a distance of 1328.11 feet to a 5/8 inch rebar with a plastic cap stamped "SPIRES IN LS 29900015", hereinafter called a monument, at the Southeast Corner of the North Half of the Southwest Quarter (Center South Sixteenth Corner) of said section; thence North 89 degrees 53 minutes 06 seconds West along the South line of the North Half of the Southwest Quarter of said section a distance of 26.94 feet to an iron pin on the Westerly right of way line of Sycamore Terrace Street and the Point of Beginning of this description; thence North 89 degrees 53 minutes 06 seconds West along the South line of the North Half of the Southwest Quarter of said section a distance of 623.15 feet to a monument; thence North 00 degrees 20 minutes 42 seconds East parallel with the East line of the Southwest Quarter of said section a distance of 206.38 feet to a monument on the Southerly right of way line of New Margaret Avenue being a non-tangent curve concave Northwesterly having a radius of 1580.00 feet, a chord length of 257.36 and a chord bearing of North 50 degrees 34 minutes 26 seconds East; thence Northeasterly along said curved right of way a distance of 257.64 feet to a monument at the tangent to said curve; thence North 45 degrees 54 minutes 08 seconds East along said right of way a distance of 598.43 feet to a monument; thence South 70 degrees 39 minutes 48 seconds East along said right of way a distance of 26.24 feet to the East line of the Southwest Quarter of said section; thence continue the previous course a distance of 72.15 feet to a monument; thence North 22 degrees 16 minutes 20 seconds East along said right of way a distance of 24.95 feet to a monument on the Westerly right of way line of Sycamore Terrace Street being a non-tangent curve concave Westerly having a radius of 410.00 feet, a chord length of 455.63


feet and a chord bearing of South 10 degrees 20 minutes 34 seconds East; thence Southerly along said curved right of way a distance of 483.09 feet to a monument; thence South 65 degrees 17 minutes 18 seconds West along said right of way a distance of 64.63 feet to a monument; thence South 35 degrees 01 minute 39 seconds West along said right of way a distance of 71.29 feet to a monument; thence South 07 degrees 55 minutes 21 seconds West along said right of way a distance of 83.87 feet to a monument on a non-tangent curve concave Easterly having a radius of 510.00 feet, a chord length of 179.87 feet and a chord bearing of South 26 degrees 15 minutes 01 second West; thence Southerly along said curved right of way a distance of 180.81 feet to the Point of Beginning containing 9.44 acres, more or less.

Part of Tax Parcel Number: 84-07-31-300-001.000-009, and
Tax Parcel Number: 84-07-31-401-006.000-009

Commonly known as: 2611 South Sycamore Terrace, Terre Haute,
Indiana 47803.

Be and the same is hereby established as a C-3 Regional Commercial District, together with all rights and privileges that may insure to said real estate and the owners thereof by virtue of the law in such cases provided, subject to all limitations and restrictions imposed thereon by deed or otherwise.”

SECTION II. WHEREAS, an emergency exists for the immediate taking effect of this Ordinance, the same shall be in full force and effect from and after its passage by the Common Council of Terre Haute, and its approval by the Mayor and publication as required by law.

Presented by Council Member, 
Earl Elliott, Councilperson

Passed in open Council this _____ day of _____, 2018.

Curtis DeBaun, President

ATTEST:

Michelle Edwards, City Clerk

Presented by me, to the Mayor of the City of Terre Haute, this ____ day of _____, 2018.

Michelle Edwards, City Clerk

Approved by me, the Mayor of the City of Terre Haute, this ____ day of _____, 2018.

Duke A. Bennett, Mayor

ATTEST:

Michelle Edwards, City Clerk

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law.

/s/ Richard J. Shagley
Richard J. Shagley

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

PETITION TO REZONE REAL PROPERTY

TO: THE PRESIDENT AND MEMBERS OF THE COMMON COUNCIL OF THE
CITY OF TERRE HAUTE, INDIANA:

And THE PRESIDENT AND MEMBERS OF THE AREA PLAN COMMISSION FOR
VIGO COUNTY, INDIANA:

LADIES AND GENTLEMAN:

The undersigned, Cynthia L. Lucchese, President of Terre Haute Realty, LLC,
respectfully submits this Petition to rezone the following described real estate in the City
of Terre Haute, County of Vigo, Indiana, to wit:

Legal Description attached hereto and made a part hereof as Exhibit "A".

Part of Tax Parcel Number: 84-07-31-300-001.000-009, and
Tax Parcel Number: 84-07-31-401-006.000-009.

Commonly known as: 2611 South Sycamore Terrace, Terre Haute,
Indiana 47803.

Your Petitioner is informed and believes that in accordance with Chapter 10,
Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for
Terre Haute, Indiana," the above-described real estate is now zoned as O-1 Open-Space
Agricultural (part of Tax Parcel Number: 84-07-31-300-001.000-009) and C-3 Regional
Commercial District (Tax Parcel Number: 84-07-31-401-006.000-009)

Your Petitioner intends to use the vacant real estate for a commercial
development. Your Petitioner would request that the real estate described herein shall be
zoned as a C-3 Regional Commercial District.

Your Petitioner would allege that the C-3 Regional Commercial District would
not alter the general characteristics of this neighborhood since the neighborhood is a
Regional Commercial District.

Your Petitioner would respectfully show the proposed change would not be
detrimental to the public welfare or injurious to the property or improvements in the
neighborhood, and the proposed change is consistent with the planning for the area.

WHEREFORE, your Petitioner respectfully requests that the Area Plan
Commission for Vigo County and the Common Council of the City of Terre Haute,
Indiana, favorably consider the passage of a Special Ordinance amending the
Comprehensive Zoning Ordinance of the city of Terre Haute, Indiana, being Chapter 10,
Article 2 of the Municipal Code designated as "Comprehensive Zoning Ordinance for
Terre Haute, Indiana," and declaring the above-described real estate to be part of the C-3

Regional Commercial District of the City of Terre Haute, Indiana, and entitled to the rights and benefits that may accrue to the real estate and the owners thereof by virtue of the new designation subject to all limitations imposed by deed or otherwise.

IN WITNESS WHEREOF, this petition has been duly executed this 3rd day of May, 2018.

PETITIONER:

TERRE HAUTE REALTY, LLC

By: Cynthia L. Lucchese
Cynthia L. Lucchese, President

This instrument prepared by Richard J. Shagley, Attorney-at-Law, WRIGHT, SHAGLEY & LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.

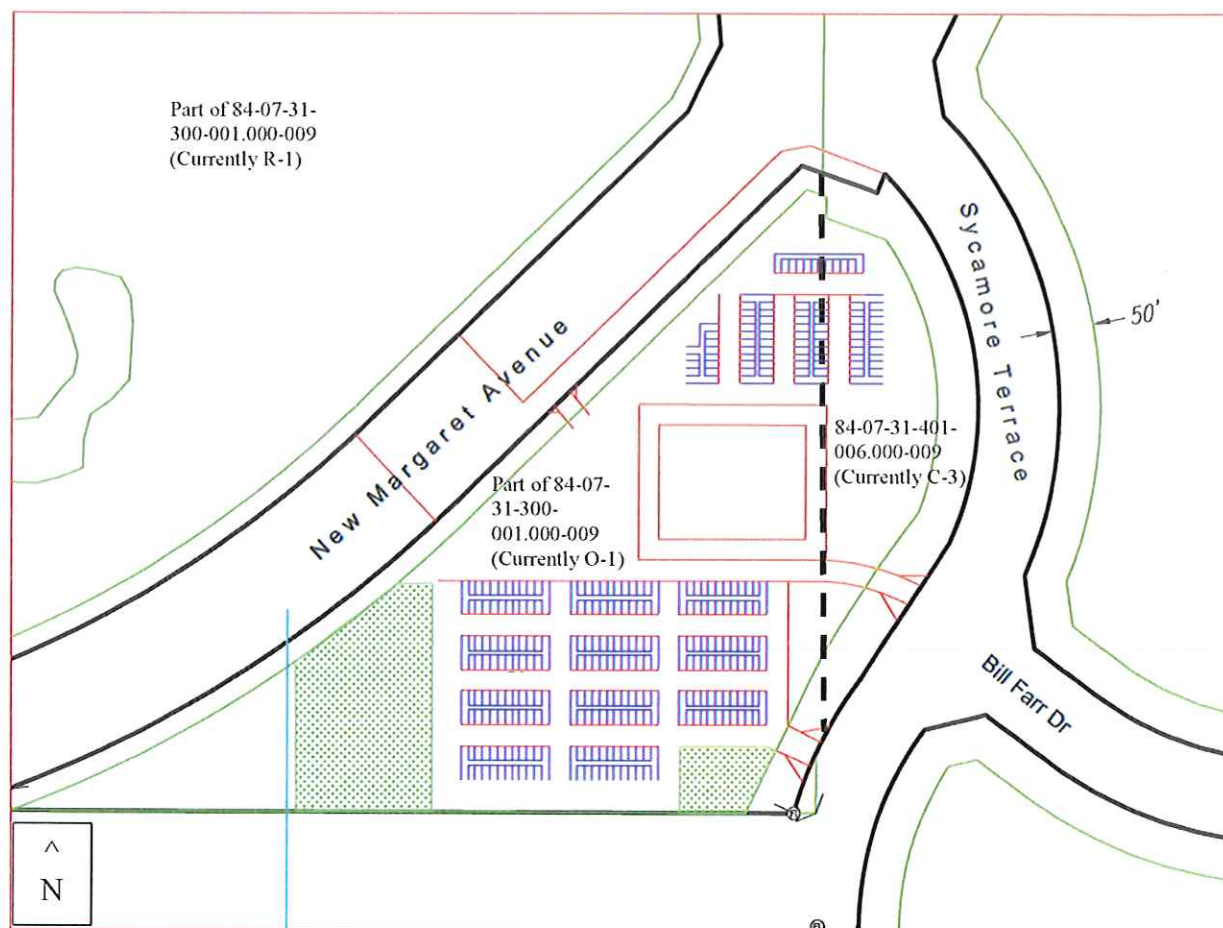
EXHIBIT A

A part of the land in the name of Terre Haute Realty, LLC (Instrument No. 2014014632) being in the Southwest Quarter and the Southeast Quarter of Section 31, Township 12 North, Range 8 West of the Second Principal Meridian, Lost Creek Township, City of Terre Haute, Vigo County, Indiana described as follows:

Commencing at a cotton gin spindle monumenting the South Quarter Corner of said section; thence North 00 degrees 20 minutes 42 seconds East along the East line of the Southwest Quarter of said section a distance of 1328.11 feet to a 5/8 inch rebar with a plastic cap stamped "SPIRES IN LS 29900015", hereinafter called a monument, at the Southeast Corner of the North Half of the Southwest Quarter (Center South Sixteenth Corner) of said section; thence North 89 degrees 53 minutes 06 seconds West along the South line of the North Half of the Southwest Quarter of said section a distance of 26.94 feet to an iron pin on the Westerly right of way line of Sycamore Terrace Street and the Point of Beginning of this description; thence North 89 degrees 53 minutes 06 seconds West along the South line of the North Half of the Southwest Quarter of said section a distance of 623.15 feet to a monument; thence North 00 degrees 20 minutes 42 seconds East parallel with the East line of the Southwest Quarter of said section a distance of 206.38 feet to a monument on the Southerly right of way line of New Margaret Avenue being a non-tangent curve concave Northwesterly having a radius of 1580.00 feet, a chord length of 257.36 and a chord bearing of North 50 degrees 34 minutes 26 seconds East; thence Northeasterly along said curved right of way a distance of 257.64 feet to a monument at the tangent to said curve; thence North 45 degrees 54 minutes 08 seconds East along said right of way a distance of 598.43 feet to a monument; thence South 70 degrees 39 minutes 48 seconds East along said right of way a distance of 26.24 feet to the East line of the Southwest Quarter of said section; thence continue the previous course a distance of 72.15 feet to a monument; thence North 22 degrees 16 minutes 20 seconds East along said right of way a distance of 24.95 feet to a monument on the Westerly right of way line of Sycamore Terrace Street being a non-tangent curve concave Westerly having a radius of 410.00 feet, a chord length of 455.63 feet and a chord bearing of South 10 degrees 20 minutes 34 seconds East; thence Southerly along said curved right of way a distance of 483.09 feet to a monument; thence South 65 degrees 17 minutes 18 seconds West along said right of way a distance of 64.63 feet to a monument; thence South 35 degrees 01 minute 39 seconds West along said right of way a distance of 71.29 feet to a monument; thence South 07 degrees 55 minutes 21 seconds West along said right of way a distance of 83.87 feet to a monument on a non-tangent curve concave Easterly having a radius of 510.00 feet, a chord length of 179.87 feet and a chord bearing of South 26 degrees 15 minutes 01 second West; thence Southerly along said curved right of way a distance of 180.81 feet to the Point of Beginning containing 9.44 acres, more or less.

PRELIMINARY SITE PLAN

Owner: Terre Haute Realty, LLC
Special Ordinance No. 8, 2018
Currently Zoned: O-1 and C-3
Proposed Zoning: C-3
2611 South Sycamore Terrace
Terre Haute, IN 47803



DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

DEC 09 2014

2014014635 QD \$21.00
12/09/2014 12:14:14P 3 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented



Timothy M. Squire
VIGO COUNTY AUDITOR

EXEMPT FROM DISCLOSURE FEE

QUITCLAIM DEED

This Quitclaim Deed ("Deed") is made as of January 1, 2014 (the "Effective Date"), by HULMAN & COMPANY, an Indiana corporation ("Grantor"), to and in favor of TERRE HAUTE REALTY, LLC, an Indiana limited liability company ("Grantee").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby REMISE, RELEASE and FOREVER QUITCLAIM to Grantee, all of Grantor's right, title and interest in and to that certain real estate located in Vigo County, Indiana, more particularly described on Exhibit A attached hereto and made a part hereof by reference ("Land"), including, without limitation, all right, title and interest of Grantor, if any, in and to (i) all of the oil, gas, coal bed methane, other solid, liquid or gaseous hydrocarbons or other minerals, or any of them or any combination thereof, and all products and substances extracted, separated, processed or produced therefrom or fractions thereof (collectively, the "Minerals") contained on, under or within the Land, (ii) any leases pertaining to the Land or Minerals and (iii) any right to receive royalties, overriding royalties, net profits interests, or other payments interests in respect of the Minerals, the Land or any improvements thereon (the Land and all of the foregoing rights, title and interests being hereinafter referred to collectively as, the "Real Estate").

The undersigned person executing this deed on behalf of Grantor represents and certifies that such person is a duly elected officer of Grantor and has been fully empowered, by proper resolution of the Board of Directors of said corporation, to execute and deliver this deed; that Grantor has full corporate capacity to convey the Real Estate described herein and that all necessary corporate action for the making of such conveyance has been taken and done.

[Signature page follows]

IN WITNESS WHEREOF, Grantor has executed this Deed on the date of notarization below to be effective as of the Effective Date.

"GRANTOR":

HULMAN & COMPANY, an Indiana corporation

By: Gretchen E. Snelling
Gretchen E. Snelling, Vice President
and Secretary

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Gretchen E. Snelling, the Vice President and Secretary, of Hulman & Company, an Indiana corporation, and acknowledged the execution of the foregoing instrument as such officer acting for and on behalf of said entity, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 31st day of December, 2013.

Signature Diane M. Farah

Printed Diane M. Farah
NOTARY PUBLIC

My Commission Expires:

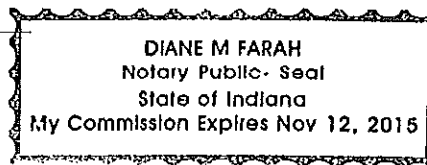
Nov. 12, 2015

County of Residence:

MARION

Send future real estate tax bills to
and Grantee's mailing address is:

900 WABASH AVE
TERRE HAUTE, IN 47807



This instrument prepared by: Kenneth B. Chigges, Esq., ICE MILLER LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282-0200

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. - - Kenneth B. Chigges

EXHIBIT A

That certain real property identified as follows:

<u>Common Address/Description:</u>	<u>State Parcel Identification No.:</u>	<u>Abbreviated Legal Description:</u>
900 Wabash Main Building	84-06-22-308-010.000-002	Rose's Add & Rose's Sub of Canal Bed Lots 34-35 & 61 & 100' strip adj. E. Side E 60' N-169 165 & 167-169 1.73 AC
4551 E. Hulman Dr	84-07-31-101-001.000-009	144.59 AC NW Sec 31-12-8 (Thompson Ditch 55.5 Ac)
E. Wabash 3.65 Ac.	84-07-16-300-006.000-008	3.65 AC Mid W 1/2 S of Hwy D-326/240 16-12-8
S State Rd 46 (Bettenbrock Farm)	84-07-31-300-001.000-009	66.19 AC N-1/2 SW EXC TO ROW 31-12-8
S Sycamore Terrance St & Bill Far Dr (Bettenbrock Farm)	84-07-31-401-001.000-009	17.06 AC W Part NW SE 31-12-8
Hulman Street	84-07-30-378-009.000-009	12 AC E Side SE SW Sec 30-12-8 4.08 AC Thompson Ditch
Hulman Street	84-07-30-401-001.000-009	80 AC W 1/2 SE Sec. 30-12-8 3.64 AC Thompson Ditch
Hwy 46	84-07-30-426-001.000-009	40 AC NE SE Sec. 30-12-8

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

AFFIDAVIT

Comes now, Cynthia L. Lucchese, President of Terre Haute Realty, LLC, being duly sworn upon her oath, deposes and says:

1. That Terre Haute Realty, LLC is the owner of record of the following described real estate located in the City of Terre Haute, County of Vigo, State of Indiana, to-wit:

Legal Description attached hereto and made a part hereof as Exhibit "A".

Part of Tax Parcel Number: 84-07-31-300-001.000-009, and
Tax Parcel Number: 84-07-31-401-006.000-009

Commonly known as: 2611 South Sycamore Terrace, Terre Haute,
Indiana 47803.

2. That a copy of the Deed, recorded in the records of the Recorder's Office of Vigo County, Indiana, is attached hereto and made a part hereof and marked as Exhibit "B".

3. That Affiants make this Affidavit for the sole purpose of affirming that Terre Haute Realty, LLC is the owner of record of the above-described real estate for which a proposed change to the zoning map of the City of Terre Haute, Indiana, has been filed and to induce the Common Council of the City of Terre Haute, Indiana, to accept the Petition to Rezone Real Property as filed by Terre Haute Realty, LLC.

4. Further, Affiant saith not.

Dated at Terre Haute, Indiana this 3rd day of May, 2018.

TERRE HAUTE REALTY, LLC

By: Cynthia L. Lucchese
Cynthia L. Lucchese, President

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

SUBSCRIBED AND SWORN TO before me, a Notary Public in and for said
County and State, this 3rd day of May, 2018.

Diane M. Farah
Diane M. Farah, Notary Public

My Commission expires: Oct 5, 2023

My County of Residence: MARION

This instrument prepared by Richard J. Shagley, Attorney at Law, WRIGHT, SHAGLEY
& LOWERY, P.C., 500 Ohio Street, P.O. Box 9849, Terre Haute, Indiana 47807.



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DULY ENTERED FOR TAXATION
Subject to final acceptance for transfer

DEC 09 2014

Timothy M. Spurgeon
VIGO COUNTY AUDITOR

2014014635 00 \$21.00
12/09/2014 12:14:14P 3 PGS
NANCY S. ALLSUP
VIGO County Recorder IN
Recorded as Presented



EXEMPT FROM DISCLOSURE FEE

QUITCLAIM DEED

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NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor does hereby REMISE, RELEASE and FOREVER QUITCLAIM to Grantee, all of Grantor's right, title and interest in and to that certain real estate located in Vigo County, Indiana, more particularly described on Exhibit A attached hereto and made a part hereof by reference ("Land"), including, without limitation, all right, title and interest of Grantor, if any, in and to (i) all of the oil, gas, coal bed methane, other solid, liquid or gaseous hydrocarbons or other minerals, or any of them or any combination thereof, and all products and substances extracted, separated, processed or produced therefrom or fractions thereof (collectively, the "Minerals") contained on, under or within the Land, (ii) any leases pertaining to the Land or Minerals and (iii) any right to receive royalties, overriding royalties, net profits interests, or other payments interests in respect of the Minerals, the Land or any improvements thereon (the Land and all of the foregoing rights, title and interests being hereinafter referred to collectively as, the "Real Estate").

The undersigned person executing this deed on behalf of Grantor represents and certifies that such person is a duly elected officer of Grantor and has been fully empowered, by proper resolution of the Board of Directors of said corporation, to execute and deliver this deed; that Grantor has full corporate capacity to convey the Real Estate described herein and that all necessary corporate action for the making of such conveyance has been taken and done.

[Signature page follows]

EXHIBIT B

IN WITNESS WHEREOF, Grantor has executed this Deed on the date of notarization below to be effective as of the Effective Date.

"GRANTOR":

HULMAN & COMPANY, an Indiana corporation

By: Gretchen E. Snelling
Gretchen E. Snelling, Vice President
and Secretary

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me, a Notary Public in and for said County and State, personally appeared Gretchen E. Snelling, the Vice President and Secretary, of Hulman & Company, an Indiana corporation, and acknowledged the execution of the foregoing instrument as such officer acting for and on behalf of said entity, and who, having been duly sworn, stated that the representations therein contained are true.

WITNESS my hand and Notarial Seal this 31st day of December, 2013.

Signature Diane M. Farah

Printed Diane M. Farah
NOTARY PUBLIC

My Commission Expires:

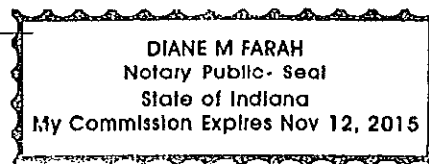
Nov. 12, 2015

County of Residence:

MARION

Send future real estate tax bills to
and Grantee's mailing address is:

900 WABASH AVE
TERRE HAUTE, IN 47807



This instrument prepared by: Kenneth B. Chigges, Esq., ICE MILLER LLP, One American Square, Suite 2900, Indianapolis, Indiana 46282-0200

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. - - Kenneth B. Chigges

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S Sycamore Terrance St & Bill Far Dr (Bettenbrock Farm)	84-07-31-401- 001.000-009	17.06 AC W Part NW SE 31-12-8
Hulman Street	84-07-30-378- 009.000-009	12 AC E Side SE SW Sec 30-12-8 4.08 AC Thompson Ditch
Hulman Street	84-07-30-401- 001.000-009	80 AC W 1/2 SE Sec. 30-12-8 3.64 AC Thompson Ditch
Hwy 46	84-07-30-426- 001.000-009	40 AC NE SE Sec. 30-12-8

TERRE HAUTE
A LEVEL ABOVE

Receipt

The following was paid to the City of Terre Haute, Controller's Office.

Date: 5/3/18

Name: Terre Haute Realty

Reason: Rezoning - Notice of Filing 25.00

Petition 20.00

45.00

Cash: _____

Check: #68421 \$45.00

Credit: _____

Total: \$45.00

Received By: L Ellis

TERRE HAUTE, IN
PAID
MAY 14 2018
CONTROLLER